

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6244**

**BILL NUMBER:** SB 114

**NOTE PREPARED:** Dec 3, 2003

**BILL AMENDED:**

**SUBJECT:** Counsel for Indigent Inmates in Civil Actions.

**FIRST AUTHOR:** Sen. Bowser

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill requires the Department of Correction to pay the attorney's fees of an indigent inmate in a civil action.

**Effective Date:** July 1, 2004.

**Explanation of State Expenditures:** This bill would shift the costs of representing indigent litigants who are Department of Correction (DOC) offenders from the counties in which these offenders are housed to the DOC. Offenders must qualify for legal representation by meeting certain criteria that are specified in statute and described in *Explanation of Local Expenditures*.

The added cost for the state General Fund, which would be the ultimate payer, is not known.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** This bill could reduce the cost to the counties if the DOC is assigned the cost of paying for an attorney to represent offenders in civil filings.

*Background:* Under current law, the county is responsible for providing legal representation for persons who are determined to be indigent and meet the following thresholds:

1. The person does not have sufficient means to litigate the case.
2. The applicant is likely to prevail on the merits of the applicant's claim or defense.
3. The applicant is not able to investigate and present claims or defenses without an attorney given the

- type and complexity of the facts and legal issues in the action.
4. The applicant made a diligent effort to obtain an attorney before filing the application for indigency.

Generally, the courts have not appointed any attorneys to represent these offenders in civil litigation because they have not met these four criteria.

There are 16 counties with adult facilities in Indiana that would be affected by this bill. Counties with a large number of offenders are likely to have more lawsuits filed than counties with smaller numbers of offenders. The five counties with the largest adult offender populations are LaPorte, Miami, Hendricks, Putnam, and Sullivan.

County	Adult Facilities	Adult Offenders
Clark	Madison Correctional Facility	165
Hendricks	Plainfield Correctional Facility, Reception Diagnostic Center	2,145
Henry	New Castle Correctional Facility, New Castle Psych Unit	303
Jasper	Medearyville Correctional Facility	116
Jefferson	Henryville Correctional Facility	101
Johnson	Atterbury Correctional Facility /Edinburgh Correctional Facility	202
Laporte	Maximum Control Facility; Indiana State Prison; Westville and Lakeside Correctional Facilities	4,935
Madison	Correctional Industrial Complex, Pendleton Correctional Facility	1,887
Marion	Indianapolis Men's and Women's Work Release; Indiana Women's Prison	523
Miami	Miami Correctional Facility	2,326
Noble	Chain O' Lakes Correctional Facility	105
Parke	Rockville Women's Prison	1,121
Perry	Branchville Correctional Facility	1,091
Putnam	Putnamville Correctional Facility	2,257
Saint Joseph	South Bend Work Release Center	53
Sullivan	Wabash Valley	<u>2,082</u>
Counties	16	<u><u>19,412</u></u>

There are also eight counties that have juvenile correctional facilities located in their county.

<b>County</b>	<b>Juvenile Facilities</b>	<b>Number of Juveniles</b>
Allen	Ft. Wayne Juvenile and Northeast Juvenile Correctional Facilities	113
Cass	Logansport and North Central Juvenile Correctional Facilities	213
Hendricks	Plainfield Juvenile Correctional Facility	325
Laporte	Camp Summit	36
Madison	Pendleton Juvenile Correctional Facility	303
Marion	Indianapolis Juvenile Correctional Facility	198
Monroe	Bloomington Juvenile Correctional Facility	36
Saint Joseph	South Bend Juvenile Correctional Facility	<u>71</u>
Counties	8	1295

Finally, DOC offenders are also in the jails in 66 other counties that have contracts with DOC to house these offenders. The following counties have 25 or more DOC offenders in their jails under contract with the Department of Correction as of November 17, 2003:

<b>County Jail</b>	<b>Males</b>	<b>Females</b>	<b>Total</b>
Tippecanoe	112	5	117
Lagrange	70	1	71
Noble	71	0	71
St Joseph	66	5	71
Shelby	49	0	49
Warrick	47	1	48
Putnam	44	2	46
Jackson	41	2	43
Lawrence	41	2	43
Porter	40	0	40
Jennings	38	1	39
Kosciusko	33	5	38
Wells	37	0	37
Pike	36	0	36
Vermillion	35	0	35
Delaware	28	4	32
Blackford	29	0	29
Cass	28	0	28
Fayette	27	0	27
Monroe	21	5	26
Henry	25	0	25
Wayne	19	6	25

The Torts Claims Division of the Office of the Attorney General reports the following information about claims from offenders.

FY	Number of Prisoner Claims			
	State Paid on	Still Open	Closed with Nothing Paid	Total Claims Filed
2002	55	7	649	711
2003	32	46	688	766

Of the total claims paid in 2002 and 2003, 83 of the 87 paid were for damage of property belonging to a prisoner.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction, Office of the Attorney General.

**Local Agencies Affected:** Trial Courts.

**Information Sources:** Department of Correction; Office of the Attorney General; Daniel Banina, Miami Superior Court; Diana LaViolette, Putnam Circuit Court.

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